



**UNITED STATES DEPARTMENT OF COMMERCE**  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/475,713 12/30/99 ZUNIGA

M 09464-010001 *don*

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MM92/0605

EXAMINER

RILEY, S

ART UNIT

PAPER NUMBER

2838

*12*

DATE MAILED:

06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Advisory Action**

Application No.

09/475,713

Examiner

Shawn Riley

Applicant(s)

ZUNIGA ET AL.

Art Unit

2838

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
- (b) ☐ they raise the issue of new matter. (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

4. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
5. ☒ Newly proposed or amended claim(s) 18 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached paper.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: 1-10 and 15-24.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: 11-14.
9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
11. ☒ Other: see attached paper

Shawn Riley  
Primary Examiner  
Art Unit: 2838

**DETAILED ACTION*****Response to Applicants arguments***


Applicants' response with an amendment filed 21 May 2001 after final has been considered but not deemed persuasive. In an attempt to further elucidate the issues a little more room is required than on a standard advisory action paper. Applicants suggest that the claimed invention<sup>1</sup> should be disclosed as usable together to define in part if the inventions are related. Applicants go on further to make the comments that --*if* the situation is as applicant argue it is in this case-- of a brake and steering wheel than the invention **are related**. To applicants probable surprise the examiner agrees. However, the instant analogy is an apples and orange problem.

That is, if the examiner were to characterize the situation the following analogy would be appropriate. That is, e.g., of two inventions of a first and second steering wheel. More precisely, the invention is of two regulators. The function of both regulators is to provide regulated power (just as the function of a steering wheel is to steer a vehicle). However, one regulator functions and is designed completely differently than the second. Just as a steering wheel based on a two-dimensional space (e.g., a car wheel) is different from a steering wheel based on a three dimensional space (e.g., an airplane steering mechanism). Further, in no part of the current disclosure is there mention of both the regulators being used together at the same time. Only a single regulator is used. Just as an airplane does not utilize both a two and three-dimensional device at the same time since a device capable of operating in three dimensions would

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handle all possible situations. Alternatively, in a car a three dimensional device would not be used. These regulators, like steering wheels of a plane and a car, are not capable of being usable **TOGETHER nor disclosed** as being capable of being used together. For at least the above reasons, this restriction is maintained and the final is maintained and this advisory has been issued.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Riley whose telephone number is 703.305.3487. The Examiner can normally be reached Monday through Thursday from 7:30-6:00 p.m. Eastern Standard Time. The fax phone number for this Group is 703.305.7731 or 7732. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703.308.1782.

  
*Shawn Riley*  
*Primary Examiner*

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<sup>1</sup> Which applicants allege was previously misstated by the Examiner as being "that two different regulators are usable together".